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OFFICE OF PETITIONS

In re Application of :
Gray :
Application No. 09/934,016 :
Filed: August 20, 2001 :
Attorney Docket No. PGRAC :
For: MEDICAL PORT FOR AN :
EMERGENCY SAFETY RESUSCITATOR :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 29, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the April 21, 2006 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on July 22, 2006. A Notice of Abandonment was mailed on October 30, 2006.

Petitioner alleges that the April 21, 2006 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the April 21, 2006 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a search of docket records and the application's file jacket for indication that the April 21, 2006 non-final Office action was received was fruitless.

Petitioner has established non-receipt. The petition is **granted**, the holding of abandonment is withdrawn, and the October 30, 2006 Notice of Abandonment is **vacated**.

After the mailing of this decision, the application will be returned to Technology Center A.U. 3771 for the re-mailing of the April 21, 2006 non-final Office action with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.



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